

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

KHALIL KHOLI

v.

A.T. WALL

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C.A. No. 07-346S

REPORT AND RECOMMENDATION

Lincoln D. Almond, United States Magistrate Judge

In this matter, Petitioner Khalil Kholi filed an Application to Proceed Without Prepayment of Fees and Affidavit on February 25, 2008. (Document No. 22). This matter has been referred to me for preliminary review, findings and recommended disposition pursuant to 28 U.S.C. § 636(b)(1)(B) and LR Cv 72. The Court has determined that no hearing is necessary. After reviewing the Motion submitted, I recommend that the Application to Proceed Without Prepayment of Fees be DENIED.

Kholi filed his 28 U.S.C. § 2254 Petition on September 12, 2007. Shortly thereafter, Petitioner paid the \$5.00 filing fee. Now, Petitioner seeks leave to file his appeal *in forma pauperis*. Petitioner's Affidavit states he is employed at the ACI and receives a salary of \$3.00 per day. Petitioner states that he has no other source of monthly income. However, at the time that the Affidavit was submitted, Petitioner had a balance of \$2,965.49 in a checking account. Petitioner's Inmate Statement states that \$523.25 is encumbered, which leaves a "spending balance" of \$2,442.24. The filing fee for an appeal is \$455.00, and Petitioner has sufficient funds to proceed with his case without *in forma pauperis* status.

Conclusion

For the foregoing reasons, I recommend that the Petitioner's Application to Proceed Without Prepayment of Fees (Document No. 22) be DENIED without prejudice to renewal of the Motion in the future if there is any change in Petitioner's financial circumstances. Any objection to this Report and Recommendation must be specific and must be filed with the Clerk of the Court within ten (10) days of its receipt. See Fed. R. Civ. P. 72(b); LR Cv 72. Failure to file specific objections in a timely manner constitutes waiver of the right to review by the District Court and the right to appeal the District Court's decision. See United States v. Valencia-Copete, 792 F.2d 4, 6 (1st Cir. 1986); Park Motor Mart, Inc. v. Ford Motor Co., 616 F.2d 603, 605 (1st Cir. 1980).

/s/ Lincoln D. Almond
LINCOLN D. ALMOND
United States Magistrate Judge
February 27, 2008